

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

ANDREW K. REEVES,

Plaintiff,

v.

**AIRLITE PLASTICS COMPANY, a Nebraska
corporation; THE 401(K) PLAN AND
EMPLOYEES TRUST OF AIRLITE PLASTICS
COMPANY, PLAN No. 002, REVISION 2001;
THE 401(K) PLAN AND EMPLOYEES TRUST
OF AIRLITE PLASTICS COMPANY, PLAN No.
002, REVISION 2001 ADMINISTRATIVE
COMMITTEE; BRADLEY J. CROSBY,
LECLAIR N. DUIMSTRA and JOHN C. OTTO,**

Defendants.

8:04CV56

ORDER

This matter is before the court on plaintiff's MOTION FOR ORDER COMPELLING DISCOVERY (#68). The motion pertains only to plaintiff's Request for Production No. 1. Having considered defendants' response (#72), I conclude that the motion should be denied as moot.

Request No. 1 asks for "copies of all minutes, records, notes or other paperwork or documentation concerning the Defendant's administration of the 401(k) Plan and Employees Trust of Airlite Plastics Company Plan No. 002, change from a 401(k) plan to a 404(c) plan commencing June 2000 to the present date." The court agrees with the defendants that this request is unclear. In any event, on July 6, 2005, defendants served copies of the requested administrative committee meeting minutes from June 2000 to present. I further find that the circumstances of this incident would make an award of expenses unjust and decline to award costs or fees to either party. *See* Fed. R. Civ. P. 37(a)(4)(B).

IT THEREFORE IS ORDERED that plaintiff's MOTION FOR ORDER COMPELLING DISCOVERY (#68) is denied as moot.

DATED July 6, 2005.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**